

Office of Chief Counsel
Internal Revenue Service

memorandum

CC:LM:FSH:BOS:TL-N-719-01

BJLaterman

date:

to: Bob Donovan, Team Case Leader, Boston Appeals

from: Associate Area Counsel, Boston

subject:

Preparation of Form 872-F

This is in response to your Memorandums of January 25, 2001 and January 26, 2001 regarding extending the statute of limitations with regard to "items of a partnership" that have converted under I.R.C. § 6231(b) to "non-partnership items".

The [REDACTED] is the common parent of an affiliated group of corporations that filed a consolidated return for the taxable year ended [REDACTED]. [REDACTED] and [REDACTED] are two corporations which were members of [REDACTED] affiliated group for said taxable year. These corporations were partners in the partnership known as [REDACTED] for its taxable year ended [REDACTED]. Adjustments were proposed with respect to the [REDACTED] partnership which have been agreed to. The agreement converted the partnership items to "non-partnership items" under IRC § 6231 (b) (1) (c); i.e., a settlement agreement has been entered into with the partners. Under IRC §6229(f) (1), the assessment date with respect to these "non-partnership items" is one year after the date on which the items become non-partnership items. This period may be extended by an agreement in writing entered into with the partner. Your inquiry is as to whom such agreements should be solicited for [REDACTED] and [REDACTED].

The common parent, with certain exceptions not applicable here, is the sole agent for each member of the group, duly authorized to act in its own name in all matters relating to the tax liability for the consolidated return year (for which it was common parent). Treas. Reg. § 1.1502-77(a). The common parent in its name will give waivers and any waiver so given shall be considered as having also been given or executed by each subsidiary in the consolidated group. Treas. Reg. § 1.1502-77(a). Accordingly, [REDACTED], the common parent (for the year to which the partnership adjustments flow) is the

proper party from whom which to solicit consents for [REDACTED] and [REDACTED] with respect to extending the statute for the non-partnership items flowing from the [REDACTED] partnership.

We have examined the Forms 872-F attached to the Memos of January 25, 2001 and January 26, 2001. It is noted that Form 872-F (Consent to Extend the Time to Assess Tax Attributable to Items of a Partnership or S Corporation That Have Converted Under Section 6231(b) of the Internal Revenue Code) is the proper Form to solicit the extensions. You have correctly solicited the extensions from [REDACTED]. On the Form 872-F attached to the January 26, 2001 Memo, you add a provision that explains the agency relationship between [REDACTED] and the subsidiary corporations who are the actual partners; i.e., [REDACTED] is executing the Form 872-F as agent for the corporations which were the partners in the [REDACTED] partnership. We recommend that you use the Form 872-F attached to the Memo of January 26, 2001, since it clarifies in what capacity [REDACTED] is extending of behalf of the partner corporations. This Form 872-F should be executed by an authorized officer or director of [REDACTED].

In summary, we are in concurrence that the Form 872-F should be solicited from [REDACTED]. We note that we have informally coordinated with our National Office [Ronald L. Buch, Jr. (202) 283-862] and they are in agreement with our conclusions. If we can be of any further assistance, the undersigned can be reached at 617-565-7855.

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